

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 71 be amended to read as follows:

1           Page 8, between lines 28 and 29, begin a new paragraph and insert:  
2           "SECTION 7. IC 22-3-3-8 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. With respect to  
4           injuries occurring prior to April 1, 1951, causing temporary total  
5           disability for work, there shall be paid to the injured employee during  
6           such total disability for work a weekly compensation equal to fifty-five  
7           percent (55%) of ~~his~~ **the injured employee's** average weekly wages for  
8           a period not to exceed five hundred (500) weeks. With respect to  
9           injuries occurring on and after April 1, 1951, and prior to July 1, 1971,  
10          causing temporary total disability for work, there shall be paid to the  
11          injured employee during such total disability a weekly compensation  
12          equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average  
13          weekly wages for a period not to exceed five hundred (500) weeks.  
14          With respect to injuries occurring on and after July 1, 1971, and prior  
15          to July 1, 1974, causing temporary total disability for work, there shall  
16          be paid to the injured employee during such total disability a weekly  
17          compensation equal to sixty per cent (60%) of ~~his~~ **the injured**  
18          **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section**  
19          **22 of this chapter**, a period not to exceed five hundred (500) weeks.  
20          With respect to injuries occurring on and after July 1, 1974, and before  
21          July 1, 1976, causing temporary total disability or total permanent  
22          disability for work, there shall be paid to the injured employee during  
23          such total disability a weekly compensation equal to sixty-six and  
24          two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average

1 weekly wages up to one hundred and thirty-five dollars (\$135.00)  
 2 average weekly wages, as defined in section 22 of this chapter, for a  
 3 period not to exceed five hundred (500) weeks. With respect to injuries  
 4 occurring on and after July 1, 1976, causing temporary total disability  
 5 or total permanent disability for work, there shall be paid to the injured  
 6 employee during the total disability a weekly compensation equal to  
 7 sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of ~~his~~ **the injured**  
 8 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~; **section**  
 9 **22 of this chapter**, for a period not to exceed five hundred (500)  
 10 weeks. **When an employee who has sustained a compensable injury**  
 11 **returns to work and suffers a later period of disability due to that**  
 12 **injury after July 1, 2002, the average weekly wage for that period**  
 13 **of disability shall be determined based on the average weekly wage**  
 14 **at the time of the disability subject to the maximum average weekly**  
 15 **wage in effect as of the last day worked, computed as set forth in**  
 16 **section 22 of this chapter.** Compensation shall be allowed for the first  
 17 seven (7) calendar days only if the disability continues for longer than  
 18 twenty-one (21) days.

19 SECTION 8. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,  
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to  
 22 the worker's compensation board created under IC 22-3-1-1.

23 (b) If an employee who from any cause had lost, or lost the use of,  
 24 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and  
 25 in a subsequent industrial accident becomes permanently and totally  
 26 disabled by reason of the loss, or loss of use of, another such member  
 27 or eye, the employer shall be liable only for the compensation payable  
 28 for such second injury. However, in addition to such compensation and  
 29 after the completion of the payment therefor, the employee shall be  
 30 paid the remainder of the compensation that would be due for such  
 31 total permanent disability out of a special fund known as the second  
 32 injury fund, and created in the manner described in subsection (c).

33 (c) Whenever the board determines under the procedures set forth  
 34 in subsection (d) that an assessment is necessary to ensure that fund  
 35 beneficiaries, including applicants under section 4(e) of this chapter,  
 36 continue to receive compensation in a timely manner for a reasonable  
 37 prospective period, the board shall send notice not later than October  
 38 1 in any year to:

39 (1) all insurance carriers and other entities insuring or providing  
 40 coverage to employers who are or may be liable under this article  
 41 to pay compensation for personal injuries to or the death of their  
 42 employees under this article; and

43 (2) each employer carrying the employer's own risk;  
 44 stating that an assessment is necessary. After June 30, 1999, the board  
 45 may conduct an assessment under this subsection not more than one (1)  
 46 time annually. Every insurance carrier and other entity insuring or

providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment. **All entities liable for and paying an assessment under this subsection are entitled to a credit against the assessment for the payments made the same year on which the assessment was based. These payments must have been made to an employee who was injured before January 1, 2003, and who had a later period of disability entitling the employee to an increase in the average weekly wage, as set forth in section 8 of this chapter. Any credit due shall be computed by the following formula:**

**STEP ONE: Determine the amount of compensation the employee actually received based on the average weekly wage as of the last day worked before the later period of disability.**

**STEP TWO: Determine the amount of compensation the employee would have received based on the average weekly wage at the time of the original compensable injury.**

**STEP THREE: Determine the greater of zero (0) or the result of:**

**(A) the STEP ONE amount; minus**

**(B) the STEP TWO amount.**

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation

1 liabilities. Not later than September 1 of each year, the actuary or other  
2 qualified firm shall calculate the recommended funding level of the  
3 fund based on the previous year's claims and inform the board of the  
4 results of the calculation. If the amount to the credit of the fund is less  
5 than the amount required under subsection (c), the board may conduct  
6 an assessment under subsection (c). The board shall pay the costs of the  
7 contract under this subsection with money in the fund.

8 (e) An assessment collected under subsection (c) on an employer  
9 who is not self-insured must be assessed through a surcharge based on  
10 the employer's premium. An assessment collected under subsection (c)  
11 does not constitute an element of loss, but for the purpose of collection  
12 shall be treated as a separate cost imposed upon insured employers. A  
13 premium surcharge under this subsection must be collected at the same  
14 time and in the same manner in which the premium for coverage is  
15 collected, and must be shown as a separate amount on a premium  
16 statement. A premium surcharge under this subsection must be  
17 excluded from the definition of premium for all purposes, including the  
18 computation of agent commissions or premium taxes. However, an  
19 insurer may cancel a worker's compensation policy for nonpayment of  
20 the premium surcharge. A cancellation under this subsection must be  
21 carried out under the statutes applicable to the nonpayment of  
22 premiums.

23 (f) The sums shall be paid by the board to the treasurer of state, to  
24 be deposited in a special account known as the second injury fund. The  
25 funds are not a part of the general fund of the state. Any balance  
26 remaining in the account at the end of any fiscal year shall not revert  
27 to the general fund. The funds shall be used only for the payment of  
28 awards of compensation and expense of medical examinations or  
29 treatment made and ordered by the board and chargeable against the  
30 fund pursuant to this section, and shall be paid for that purpose by the  
31 treasurer of state upon award or order of the board.

32 (g) If an employee who is entitled to compensation under IC 22-3-2  
33 through IC 22-3-6 either:

34 (1) exhausts the maximum benefits under section 22 of this  
35 chapter without having received the full amount of award granted  
36 to the employee under section 10 of this chapter; or

37 (2) exhausts the employee's benefits under section 10 of this  
38 chapter;

39 then such employee may apply to the board, who may award the  
40 employee compensation from the second injury fund established by this  
41 section, as follows under subsection (h).

42 (h) An employee who has exhausted the employee's maximum  
43 benefits under section 10 of this chapter may be awarded additional  
44 compensation equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the  
45 employee's average weekly wage at the time of the employee's injury,  
46 not to exceed the maximum then applicable under section 22 of this

chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment."

Page 12, after line 42, begin a new line block indented and insert:

**"(5) In computing the average weekly wage for an employee who has sustained a compensable injury who has returned to work and has a later period of disability due to that injury after July 1, 2002, the average weekly wage for that period of disability shall be determined based on the average weekly wage at the time of that disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in IC 22-3-3-22."**

Page 16, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 12. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:
  - (A) not more than one hundred thirty-five dollars (\$135); and
  - (B) not less than seventy-five dollars (\$75);
- (2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:
  - (A) not more than one hundred fifty-six dollars (\$156); and

- 1 (B) not less than seventy-five dollars (\$75);
- 2 (3) on and after July 1, 1977, and before July 1, 1979, the average
- 3 weekly wages are considered to be:
- 4 (A) not more than one hundred eighty dollars (\$180); and
- 5 (B) not less than seventy-five dollars (\$75);
- 6 (4) on and after July 1, 1979, and before July 1, 1980, the average
- 7 weekly wages are considered to be:
- 8 (A) not more than one hundred ninety-five dollars (\$195); and
- 9 (B) not less than seventy-five dollars (\$75);
- 10 (5) on and after July 1, 1980, and before July 1, 1983, the average
- 11 weekly wages are considered to be:
- 12 (A) not more than two hundred ten dollars (\$210); and
- 13 (B) not less than seventy-five dollars (\$75);
- 14 (6) on and after July 1, 1983, and before July 1, 1984, the average
- 15 weekly wages are considered to be:
- 16 (A) not more than two hundred thirty-four dollars (\$234); and
- 17 (B) not less than seventy-five dollars (\$75); and
- 18 (7) on and after July 1, 1984, and before July 1, 1985, the average
- 19 weekly wages are considered to be:
- 20 (A) not more than two hundred forty-nine dollars (\$249); and
- 21 (B) not less than seventy-five dollars (\$75).
- 22 (b) In computing compensation for temporary total disability,
- 23 temporary partial disability, and total permanent disability, with respect
- 24 to occupational diseases occurring on and after July 1, 1985, and before
- 25 July 1, 1986, the average weekly wages are considered to be:
- 26 (1) not more than two hundred sixty-seven dollars (\$267); and
- 27 (2) not less than seventy-five dollars (\$75).
- 28 (c) In computing compensation for temporary total disability,
- 29 temporary partial disability, and total permanent disability, with respect
- 30 to occupational diseases occurring on and after July 1, 1986, and before
- 31 July 1, 1988, the average weekly wages are considered to be:
- 32 (1) not more than two hundred eighty-five dollars (\$285); and
- 33 (2) not less than seventy-five dollars (\$75).
- 34 (d) In computing compensation for temporary total disability,
- 35 temporary partial disability, and total permanent disability, with respect
- 36 to occupational diseases occurring on and after July 1, 1988, and before
- 37 July 1, 1989, the average weekly wages are considered to be:
- 38 (1) not more than three hundred eighty-four dollars (\$384); and
- 39 (2) not less than seventy-five dollars (\$75).
- 40 (e) In computing compensation for temporary total disability,
- 41 temporary partial disability, and total permanent disability, with respect
- 42 to occupational diseases occurring on and after July 1, 1989, and before
- 43 July 1, 1990, the average weekly wages are considered to be:
- 44 (1) not more than four hundred eleven dollars (\$411); and
- 45 (2) not less than seventy-five dollars (\$75).
- 46 (f) In computing compensation for temporary total disability,

temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732);
- and

- (B) not less than seventy-five dollars (\$75);

- (4) with respect to occupational diseases occurring on and after

July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822);

and

(B) not less than seventy-five dollars (\$75); and

(6) with respect to disablements occurring on and after July 1, 2002:

(A) not more than eight hundred eighty-two dollars (\$882);

and

(B) not less than seventy-five dollars (\$75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars (\$95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) The maximum compensation with respect to disability or death



1 occurring on and after July 1, 1989, and before July 1, 1990, that shall  
2 be paid for occupational disease and the results thereof under this  
3 chapter or under any combination of its provisions may not exceed one  
4 hundred thirty-seven thousand dollars (\$137,000) in any case.

5 (o) The maximum compensation with respect to disability or death  
6 occurring on and after July 1, 1990, and before July 1, 1991, that shall  
7 be paid for occupational disease and the results thereof under this  
8 chapter or under any combination of its provisions may not exceed one  
9 hundred forty-seven thousand dollars (\$147,000) in any case.

10 (p) The maximum compensation with respect to disability or death  
11 occurring on and after July 1, 1991, and before July 1, 1992, that shall  
12 be paid for occupational disease and the results thereof under this  
13 chapter or under any combination of the provisions of this chapter may  
14 not exceed one hundred sixty-four thousand dollars (\$164,000) in any  
15 case.

16 (q) The maximum compensation with respect to disability or death  
17 occurring on and after July 1, 1992, and before July 1, 1993, that shall  
18 be paid for occupational disease and the results thereof under this  
19 chapter or under any combination of the provisions of this chapter may  
20 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

21 (r) The maximum compensation with respect to disability or death  
22 occurring on and after July 1, 1993, and before July 1, 1994, that shall  
23 be paid for occupational disease and the results thereof under this  
24 chapter or under any combination of the provisions of this chapter may  
25 not exceed one hundred ninety-seven thousand dollars (\$197,000) in  
26 any case.

27 (s) The maximum compensation with respect to disability or death  
28 occurring on and after July 1, 1994, and before July 1, 1997, that shall  
29 be paid for occupational disease and the results thereof under this  
30 chapter or under any combination of the provisions of this chapter may  
31 not exceed two hundred fourteen thousand dollars (\$214,000) in any  
32 case.

33 (t) The maximum compensation that shall be paid for occupational  
34 disease and the results of an occupational disease under this chapter or  
35 under any combination of the provisions of this chapter may not exceed  
36 the following amounts in any case:

37 (1) With respect to disability or death occurring on and after July  
38 1, 1997, and before July 1, 1998, two hundred twenty-four  
39 thousand dollars (\$224,000).

40 (2) With respect to disability or death occurring on and after July  
41 1, 1998, and before July 1, 1999, two hundred thirty-four  
42 thousand dollars (\$234,000).

43 (3) With respect to disability or death occurring on and after July  
44 1, 1999, and before July 1, 2000, two hundred forty-four thousand  
45 dollars (\$244,000).

46 (4) With respect to disability or death occurring on and after July

1 1, 2000, and before July 1, 2001, two hundred fifty-four thousand  
2 dollars (\$254,000).

3 (5) With respect to disability or death occurring on and after July  
4 1, 2001, and before July 1, 2002, two hundred seventy-four  
5 thousand dollars (\$274,000).

6 (6) With respect to disability or death occurring on and after July  
7 1, 2002, two hundred ninety-four thousand dollars (\$294,000).

8 (u) For all disabilities occurring before July 1, 1985, "average  
9 weekly wages" shall mean the earnings of the injured employee in the  
10 employment in which the employee was working at the time of the last  
11 exposure during the period of fifty-two (52) weeks immediately  
12 preceding the last day of the last exposure divided by fifty-two (52). If  
13 the employee lost seven (7) or more calendar days during the period,  
14 although not in the same week, then the earnings for the remainder of  
15 the fifty-two (52) weeks shall be divided by the number of weeks and  
16 parts thereof remaining after the time lost has been deducted. Where  
17 the employment prior to the last day of the last exposure extended over  
18 a period of less than fifty-two (52) weeks, the method of dividing the  
19 earnings during that period by the number of weeks and parts thereof  
20 during which the employee earned wages shall be followed if results  
21 just and fair to both parties will be obtained. Where by reason of the  
22 shortness of the time during which the employee has been in the  
23 employment of the employer or of the casual nature or terms of the  
24 employment it is impracticable to compute the average weekly wages  
25 as above defined, regard shall be had to the average weekly amount  
26 which, during the fifty-two (52) weeks previous to the last day of the  
27 last exposure, was being earned by a person in the same grade  
28 employed at the same work by the same employer, or if there is no  
29 person so employed, by a person in the same grade employed in that  
30 same class of employment in the same district. Whenever allowances  
31 of any character are made to an employee in lieu of wages or a  
32 specified part of the wage contract, they shall be deemed a part of the  
33 employee's earnings.

34 (v) For all disabilities occurring on and after July 1, 1985, "average  
35 weekly wages" means the earnings of the injured employee during the  
36 period of fifty-two (52) weeks immediately preceding the disability  
37 divided by fifty-two (52). If the employee lost seven (7) or more  
38 calendar days during the period, although not in the same week, then  
39 the earnings for the remainder of the fifty-two (52) weeks shall be  
40 divided by the number of weeks and parts of weeks remaining after the  
41 time lost has been deducted. If employment before the date of disability  
42 extended over a period of less than fifty-two (52) weeks, the method of  
43 dividing the earnings during that period by the number of weeks and  
44 parts of weeks during which the employee earned wages shall be  
45 followed if results just and fair to both parties will be obtained. If by  
46 reason of the shortness of the time during which the employee has been

1 in the employment of the employer or of the casual nature or terms of  
 2 the employment it is impracticable to compute the average weekly  
 3 wages for the employee, the employee's average weekly wages shall be  
 4 considered to be the average weekly amount that, during the fifty-two  
 5 (52) weeks before the date of disability, was being earned by a person  
 6 in the same grade employed at the same work by the same employer or,  
 7 if there is no person so employed, by a person in the same grade  
 8 employed in that same class of employment in the same district.  
 9 Whenever allowances of any character are made to an employee  
 10 instead of wages or a specified part of the wage contract, they shall be  
 11 considered a part of the employee's earnings.

12 **(w) In computing the average weekly wage for an employee who**  
 13 **has sustained a compensable occupational disease who has**  
 14 **returned to work and has a later period of disability due to that**  
 15 **occupational disease after July 1, 2002, the average weekly wage**  
 16 **for that period of disability shall be determined based on the**  
 17 **average weekly wage at the time of that disability subject to the**  
 18 **maximum average weekly wage in effect as of the last day worked,**  
 19 **computed as set forth in this section.**

20 **(x)** The provisions of this article may not be construed to result in  
 21 an award of benefits in which the number of weeks paid or to be paid  
 22 for temporary total disability, temporary partial disability, or permanent  
 23 total disability benefits combined exceeds five hundred (500) weeks.  
 24 This section shall not be construed to prevent a person from applying  
 25 for an award under IC 22-3-3-13. However, in case of permanent total  
 26 disability resulting from a disablement occurring on or after January 1,  
 27 1998, the minimum total benefit shall not be less than seventy-five  
 28 thousand dollars (\$75,000).".

29 Page 24, delete line 39.

30 Renumber all SECTIONS consecutively.

(Reference is to ESB 71 as printed February 22, 2002.)

---

Representative Stilwell